



**City of Cathedral City
Request for Proposals to Provide**

**ILLEGAL DUMPING AND HOMELESS ENCAMPMENT CLEAN UP SERVICES
ANNUAL AS-NEEDED CONTRACT**

The City of Cathedral City seeks proposals from qualified contractors to provide Illegal Dumping and Homeless Encampment Clean Up Services required to support the Public Works Department for **FISCAL YEARS 2019-2020 and 2020-2021**.

WORK DESCRIPTION

Cathedral City (The City) is seeking proposals from qualified contractors to provide Illegal Dumping and Homeless Encampment Clean Up Services. The purpose of this Request for Proposal (RFP) is to acquire a contractor who can provide turnkey illegal dumping and homeless encampment site cleanup for a safe and clean site by removing large items, biohazardous material and other illegally dumped and encampment waste material. All work will be conducted Monday-Friday, 7am-5pm excluding holidays. The services required are on an on-call basis but would be scheduled with advanced notice. The City anticipates cleanups to occur weekly, however, this may increase or decrease based on the City's needs. The successful Contractor will be expected to enter into the attached Agreement for Services.

SERVICES TO BE PROVIDED (Shall include, but may not be limited to):

General Specifications:

1. As directed by the City, provide turnkey illegal dumping and homeless encampment site cleanup for a safe and clean site by removing large items, biohazardous material and other illegally dumped and encampment waste material.
2. Encampment Sites are considered to contain a variety of materials that may contain hazardous materials, including biohazardous materials, garbage, general debris, human waste, constructed temporary shelter, and other items associated with homeless occupancy.
3. Illegal Dumping Sites are considered to contain a variety of large items including furniture, appliances, motors, tires, construction debris, automobile parts, bicycles, mattresses, box springs, garbage, general debris, and other items as may be dumped illegally.
4. Sites will be identified individually. The City will make an effort, when possible, to cluster several sites. Sites include under structures (e.g., bridges), open areas, vegetated ground cover, in Caltrans right-of-way, abandoned structures (e.g., houses, sheds, outbuildings), and scrap material and/or tent-built shelter. If Contractor is equipped to provide confined space entry, site locations may occasionally

require confined space entry cleanup. Property may be public or privately owned. The City will be responsible to give access to the site; however, Contractor will be required to coordinate all necessary permits as required, including Caltrans permits.

5. Site supervisor and worker(s) must be trained and certified in handling and disposal of hazardous materials. Provide copies of any applicable training records, certifications, and licenses required to perform this work.
6. All sites will be cleared by the Cathedral City Police Department prior to accessing the site.
7. Work shall be performed under a force account (time and material). Documentation of employee hours, sub-consultant costs, equipment and material costs, and disposal costs shall be provided to the City.
8. Prevailing wages must be paid for those individuals working on this Project, to include, landscape maintenance laborer, laborer – toxic waste removal, laborer – traffic control, and any other position as appropriate. Certified Payroll documentation is required to be submitted to the Department of Industrial Relations (DIR).
9. A City Business License is required prior to performing work within the City.

Duties and Responsibilities:

1. Cleanup duties shall include surveying sites, collecting debris, dismantling temporary structures, removal of trash, removal of human waste, and State approved handling and removal of all material. Disposal shall be at a site permitted to accept such materials.
2. Contractor shall supply all labor, material, tools, protective clothing and gear, and equipment that is required or needed to perform the work to handle, remove, transport, and dispose of the waste materials and leave a clean site.
3. Contractor shall coordinate with the City on a site-by-site basis to determine the work order for each encampment or illegal dumping cleanup. The work order will establish the site start date, estimated timeframe of the work, staging areas, traffic control, if required, and the name of the onsite representative.
4. Contractor shall post City provided "notice to vacate" signs at the work site prior to the commencement of each removal project as established in the work-scope and as directed by City Staff. Depending on circumstances this posting may occur 24-hours from the date of the cleanup, or two-weeks prior to the clean-up. Contractor shall photograph posted notices to document time and location of posting.
5. Contractor shall provide all supervision and management of crews and sub-contractors and ensure all necessary safety procedures are followed. This individual will serve as the City's contact.
6. Contractor shall provide bags and tags and identify and tag certain items as "personal property". Such items include but are not limited to items in good repair such as tents, backpacks, medication, eye glasses, books, jewelry, stoves, audio equipment, toiletries, personal records, handbags, personal photographs, duffel bags, bedrolls, blankets, watches, and clean clothing. The Contractor will transport identified property for storage to a site designated by City as directed by City Staff.
7. Contractor shall photograph the illegal dumping or encampment site before and after cleaning and provide an electronic copy of each photograph to the City.
8. Contractor shall notify the City when the work is complete and provide a cleanup report for each site, including total weight of debris removed.
9. Contractor shall notify the City's designated representative in the event an adjacent homeless encampment is discovered in the general area during a project to obtain authorization prior to proceeding with any additional work that was not identified in the work scope.
10. Contractor shall follow best practices work procedures to safely manage any hazardous materials found on the jobsite, including urine, feces, solid personal hygiene items, syringes, and other materials which could pose a health threat.

11. Contractor shall trim shrubs and vegetation, as required by the City, as a deterrent measure for future encampments.
12. Contractor shall immediately contact the Cathedral City Police Department if a weapon is found.
13. Contractor shall always perform work in a timely and efficient manner and in a courteous and business-like manner.
14. Contractor shall properly handle and dispose of solid waste and hazardous waste in accordance with all applicable laws.

City Responsibilities:

1. Issue a work order with a minimum of a 72-hour notification to start time of a cleanup project.
2. Provide security during the posting of the "Notice to Vacate" and provide services, if requested, during cleanup.
3. Provide a City representative to serve as a point of contact for reviewing work orders, authorizing work, addressing issues and questions.
4. City shall provide training and written instructions as required for the Contractor to help identify, sort, tag, and catalogue what will be retained as personal property.

Safety and Training:

1. Safety and appropriate training/licensing are critical requirements for the selected Contractor. At no time is the Contractor expected to interact with the homeless residents or put their employees at risk.
2. Contractor shall comply with all safety rules, protocols, and licensing requirements mandated by the State of California.
3. Work may be performed in inclement weather. Jobsites can be in heavy foliage, steep embankments, next to train tracks, and other areas requiring alertness to the environment and pre-planning to prevent injury or illness. Contractor shall perform a hazard assessment and provide all training and supplies necessary.
4. Contractor shall be OSHA certified to operate any heavy equipment required to complete the illegal dumping or encampment clean-up work, including trash compactors, bulldozers, graders or other ground moving equipment.
5. Contractor shall conform to all applicable occupational safety and health standards, rules, regulation and orders established by the State of California. The Contractor shall provide all safety equipment, materials, and will supply training as required. The Contractor shall provide its employees with appropriate safety apparel. This apparel shall include but not be limited to hardhats, safety glasses, vest, gloves, and leather (or adequately puncture resistant) boots.
6. Contractor shall be trained annually in OSHA's Bloodborne Pathogen Standard 1910.1030. This training must be supplemented with precautions regarding West Nile Virus, hanta virus, and histoplasmosis. Employees must have work procedures to be able to safely manage urine, feces, soiled personal hygiene items, syringes, and other materials which could pose a health threat. Wearing Personal Protective Equipment and following other protocols established for this situation must be followed. The Contractor will coordinate disposal of these wastes and syringes with City Staff.
7. Contractor shall provide copies of any training records and licenses required by the City upon request.

Contract Costs

Submitted proposals should include all contractor costs including labor, fleet, fuel, etc. Costs not included in the proposal will be at the contractor's expense.

1. Single mobilization for each site, with only one payment per site regardless of how many days a single

cleanup may require, to include all pre-site work setup up times, site travel times, planning, and other tasks to get the site ready to perform cleanup.

2. Includes prevailing wage labor and equipment necessary to perform all site cleanup operations.
3. Includes prevailing wage labor, containment of biohazardous waste, transient debris or any litter that poses health and safety risk, removal of contaminated contents, personal protective equipment, consumable supplies, administrative fees, and photo documentation.
4. Containment, transportation, and disposal of biohazard material per 40-gallon containment unit.
5. Containment, transportation, and disposal of non-biohazard material off site based on weight. The City of Cathedral City has an exclusive franchise agreement with Burrtec Waste for all material disposal and bin rentals.

Proposal Format

Proposals (work proposal and cost proposal) are to be submitted in separate envelopes, clearly marked with the contractor's name, address and phone number. Only one proposal per contractor will be considered.

Proposal packages are to be submitted to the City on **August 6, 2019 by 3:00 P.M.** Proposals received after the stated deadline shall not be accepted. Proposal packages are to be delivered to:

John A. Corella, P.E., Director of Engineering/Public Works
City of Cathedral City
68-700 Avenida Lalo Guerrero
Cathedral City, CA 92234

The City reserves the right to waive informalities and to reject all proposals at its sole discretion.

Contractors are encouraged to keep their proposals brief and relevant to the specific work required. Proposals shall include the following items:

1. Work Proposal (envelope 1) - submit Four (4) copies

A. Cover Letter

- (1) The name, address and phone number of the contractor's contact person for the remainder of the selection process.
- (2) Any qualifying statements or comments regarding the contractor's proposal, the information provided in the RFP or the proposed contract.
- (3) Identification of sub-contractors and their responsibilities.
- (4) Statement of Commitment to meet 72 hrs response time after notification.

B. Statement of Qualifications

- (1) A listing of proposed project personnel, including personal experiences and individual resumes for prime contractors and sub-contractors.
- (2) Contractor's and sub-contractor experience with similar work, including names and current phone numbers of references for existing and past clients.

C. Summary of Costs, per attached form.

- (1) Mobilization per site
- (2) Personnel and Equipment Rates
- (3) Containment and Disposal Rates per unit or weight as necessary.

1. Special Requirements

- A. OSHA Bloodborne Pathogen Certification.

Selection Process

Work Proposals will be reviewed by the City's Consultant Selection Committee. The Committee will rank the contractors for contract negotiations based upon the materials submitted within the Work Proposal. The proposers will be ranked based on locality to the City of Cathedral City, company history with similar work, and proposed rates.

The City will open contract negotiations with the top ranked firm. The successful contractor will be expected to enter into the attached Agreement for Services.

General Administrative Information

Each respondent understands and agrees that the City, its departments, their officers, employees or agents is not responsible for:

- a. Any costs incurred by a respondent in the preparation, delivery or presentation of a proposal.
- b. Any costs incurred by a respondent in meeting the criteria as a result of making or submitting a proposal or subsequently in entering into a formal agreement with the City.
- c. Any errors, inaccuracies or misstatements related to the information or data supplied to any consultant by the City. The use of such information or data provided by the City, its officers, employees or agents is intended to be used at the sole discretion and risk of the firm in the preparation of a proposal pursuant to this Request for Proposal only.

All proposals submitted in response to this RFP shall become the property of Cathedral City and will not be returned and such proposals, after the contract is awarded, are subject to the California Public Records Act.

Acceptance/Rejection Modification

Cathedral City reserves the right to accept, reject, modify or cancel in whole or in part, this Request for Proposal. The City reserves the right to accept or reject any and all proposals, negotiate modifications to proposals that it deems acceptable, to request and consider additional information from any proposer and to waive minor irregularities and technical defects in this proposal process. The City reserves the right to seek new proposals when it determines that it is in the best interest of the City to do so.

Authority to Withdraw

Cathedral City reserves the right to withdraw this Request for Proposal (RFP) without prior notice. The City makes no representation that any agreement will be awarded to any firm as a result of having responded to this request. All proposals submitted in response to this RFP shall become the property of the City and will not be returned.

ATTACHMENTS

Agreement for Services

SUMMARY OF COSTS

Pursuant to the Request for Proposals, the undersigned hereby proposes and agrees that on award by the City under this Proposal, and in accordance with the provisions therein stated, to execute a City Agreement for Services, to provide and to furnish any certificates of insurance and all labor, materials, transportation and services for Homeless Encampment Clean Up Services throughout the City on an as-needed basis.

The Hourly Prices listed below shall be fully burdened and include all labor, fringe benefits, overhead and profit, materials, equipment, transportation and appurtenant work as is necessary to have the item complete and in place meeting the full intent of this Request for Proposal. Hourly rates will be used as the basis for charges and invoices for the various site clean ups.

Prevailing Wage - In accordance with Section 1770 of the Labor Code, the City has ascertained and does hereby specify that the prevailing wage rates shall be those provided in Article 1110-20.0, **WAGE RATES**. The said rates shall include all employer payments that are required by Section 1773.1 of the Labor Code.

**AGREEMENT FOR SERVICES
BETWEEN
THE CITY OF CATHEDRAL CITY, CALIFORNIA
AND**

This Agreement for Services ("Agreement") is entered into as of _____, 2019 ("Effective Date") by and between the City of Cathedral City, a municipal corporation ("City") and _____, a _____ ("Service Provider"). City and Service Provider are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties."

RECITALS

A. City has sought, by [describe process used, i.e. request for qualifications, request for quotations, request for proposals, direct negotiation, informal quotes] the performance of the services defined and described particularly in Section 2 of this Agreement.

B. Service Provider, following submission of a [proposal, quote, bid, etc.] for the performance of the services defined and described particularly in Section 2 of this Agreement, was selected by the City to perform those services.

C. Pursuant to the City of Cathedral City's Municipal Code, City has authority to enter into this Services Agreement and the City Manager has authority to execute this Agreement.

D. The Parties desire to formalize the selection of Service Provider for performance of those services defined and described particularly in Section 2 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

OPERATIVE PROVISIONS

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained here and other consideration, the value and adequacy of which are hereby acknowledged, the Parties agree as follows:

TERM OF AGREEMENT.

Subject to the provisions of Section 19 "Termination of Agreement" of this Agreement, the Term of this Agreement is for [___ years/months] commencing on the Effective Date.

SCOPE OF SERVICES & SCHEDULE OF PERFORMANCE.

Scope of Services. Service Provider agrees to perform the services set forth in Exhibit "A" "Scope of Services" (hereinafter, the "Services") and made a part of this Agreement by this reference.

Schedule of Performance. The Services shall be completed pursuant to the schedule specified in Exhibit "A." Should the Services not be completed pursuant to that schedule, the Service Provider shall be deemed to be in Default of this Agreement. The City, in its sole discretion,

may choose not to enforce the Default provisions of this Agreement and may instead allow Service Provider to continue performing the Services.

ADDITIONAL SERVICES.

Service Provider shall not be compensated for any work rendered in connection with its performance of this Agreement that are in addition to or outside of the Services unless such additional services are authorized in advance and in writing in accordance with Section 25 "Administration and Implementation" or Section 27 "Amendment" of this Agreement. If and when such additional work is authorized, such additional work shall be deemed to be part of the Services.

COMPENSATION AND METHOD OF PAYMENT.

Subject to any limitations set forth in this Agreement, City agrees to pay Service Provider the amounts specified in Exhibit "B" "Compensation" and made a part of this Agreement by this reference. The total compensation, including reimbursement for actual expenses, shall not exceed _____ dollars (\$ _____), unless additional compensation is approved in writing in accordance with Section 25 "Administration and Implementation" or Section 27 "Amendment" of this Agreement.

Each month Service Provider shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month. The invoice shall detail charges by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and sub-Service Provider contracts. Sub-Service Provider charges shall be detailed by the following categories: labor, travel, materials, equipment and supplies. If the compensation set forth in subsection (a) and Exhibit "B" include payment of labor on an hourly basis (as opposed to labor and materials being paid as a lump sum), the labor category in each invoice shall include detailed descriptions of task performed and the amount of time incurred for or allocated to that task. City shall independently review each invoice submitted by the Service Provider to determine whether the work performed, and expenses incurred are in compliance with the provisions of this Agreement. In the event that no charges or expenses are disputed, the invoice shall be approved and paid according to the terms set forth in subsection (c). In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Service Provider for correction and resubmission.

Except as to any charges for work performed or expenses incurred by Service Provider which are disputed by City, City will use its best efforts to cause Service Provider to be paid within forty-five (45) days of receipt of Service Provider's correct and undisputed invoice.

Payment to Service Provider for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Service Provider.

INSPECTION AND FINAL ACCEPTANCE.

City may inspect and accept or reject any of Service Provider's work under this Agreement, either during performance or when completed. City shall reject or finally accept Service Provider's work within sixty (60) days after submitted to City. City shall reject work by a timely written explanation, otherwise Service Provider's work shall be deemed to have been accepted. City's acceptance shall be conclusive as to such work except with respect to latent defects, fraud and such gross mistakes as amount to fraud. Acceptance of any of Service Provider's work by City shall not constitute a waiver of any of the provisions of this Agreement including, but not limited to, Section 15 "Indemnification" and Section 16 "Insurance."

OWNERSHIP OF DOCUMENTS.

All original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents prepared, developed or discovered by Service Provider in the course of providing the Services pursuant to this Agreement shall become the sole property of City and may be used, reused or otherwise disposed of by City without the permission of the Service Provider. Upon completion, expiration or termination of this Agreement, Service Provider shall turn over to City all such original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents.

If and to the extent that City utilizes for any purpose not related to this Agreement any maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files or other documents prepared, developed or discovered by Service Provider in the course of providing the Services pursuant to this Agreement, Service Provider's guarantees and warranties in Section 9 "Standard of Performance; Familiarity With Work" of this Agreement shall not extend to such use of the maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files or other documents.

SERVICE PROVIDER'S BOOKS AND RECORDS.

Service Provider shall maintain any and all documents and records demonstrating or relating to Service Provider's performance of the Services. Service Provider shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, or other documents or records evidencing or relating to work, services, expenditures and disbursements charged to City pursuant to this Agreement. Any and all such documents or records shall be maintained in accordance with generally accepted accounting principles and shall be sufficiently complete and detailed so as to permit an accurate evaluation of the services provided by Service Provider pursuant to this Agreement. Any and all such documents or records shall be maintained for three (3) years from the date of execution of this Agreement and to the extent required by laws relating to audits of public agencies and their expenditures.

Any and all records or documents required to be maintained pursuant to this section shall be made available for inspection, audit and copying, at any time during regular business hours, upon request by City or its designated representative. Copies of such documents or records shall be provided directly to the City for inspection, audit and copying when it is practical to do so; otherwise, unless an alternative is mutually agreed upon, such documents and records shall be made available at Service Provider's address indicated for receipt of notices in this Agreement.

Where City has reason to believe that any of the documents or records required to be maintained pursuant to this section may be lost or discarded due to dissolution or termination of Service Provider's business, City may, by written request, require that custody of such documents or records be given to the City. Access to such documents and records shall be granted to City, as well as to its successors-in-interest and authorized representatives.

INDEPENDENT CONTRACTOR.

Service Provider is and shall at all times remain a wholly independent contractor and not an officer, employee or agent of City. Service Provider shall have no authority to bind City in any manner, nor to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City.

The personnel performing the Services under this Agreement on behalf of Service Provider shall at all times be under Service Provider's exclusive direction and control. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, shall have control over the conduct of Service Provider or any of Service Provider's officers, employees, or agents except as set forth in this Agreement. Service Provider shall not at any time or in any manner represent that Service Provider or any of Service Provider's officers, employees, or agents are in any manner officials, officers, employees or agents of City.

Neither Service Provider, nor any of Service Provider's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Service Provider expressly waives any claim Service Provider may have to any such rights.

STANDARD OF PERFORMANCE; FAMILIARITY WITH WORK.

Service Provider represents and warrants that it has the qualifications, experience and facilities necessary to properly perform the Services required under this Agreement in a thorough, competent and professional manner. Service Provider shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all Services. In meeting its obligations under this Agreement, Service Provider shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing services similar to the Services required of Service Provider under this Agreement. In addition to the general standards of performance set forth in this section, additional specific standards of performance and performance criteria may be set forth in Exhibit "A" "Scope of Work" that shall also be applicable to Service Provider's work under this Agreement. Where there is a conflict between a general and a specific standard of performance or performance criteria, the specific standard or criteria shall prevail over the general.

Service Provider warrants that (1) it has thoroughly investigated and considered the work to be performed, (2) it has investigated the issues, regarding the scope of services to be provided, (3) it has carefully considered how the work should be performed, and (4) it fully understands the facilities, difficulties and restrictions attending performance of the work under this Agreement.

COMPLIANCE WITH APPLICABLE LAWS; PERMITS AND LICENSES.

Service Provider shall keep itself informed of and comply with all applicable federal, state and local laws, statutes, codes, ordinances, regulations and rules in effect during the term of this Agreement. Service Provider shall obtain any and all licenses, permits and authorizations necessary to perform the Services set forth in this Agreement. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, shall be liable, at law or in equity, as a result of any failure of Service Provider to comply with this section.

PREVAILING WAGE LAWS

It is the understanding of City and Service Provider that California prevailing wage laws do not apply to this Agreement because the Agreement does not involve any of the following services subject to prevailing wage rates pursuant to the California Labor Code or regulations promulgated thereunder: Construction, alteration, demolition, installation, or repair work performed on public buildings, facilities, streets or sewers done under contract and paid for in whole or in part out of public funds. In this context, "construction" includes work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work.

NONDISCRIMINATION.

Service Provider shall not discriminate, in any way, in the employment of persons to perform the Services in violation of any federal or state law prohibiting discrimination in employment, including based on the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, of any person, except as provided under California Government Code section 12940.

CONFLICTS OF INTEREST.

Service Provider covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Service Provider's performance of the Services. Service Provider further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the City Manager. Service Provider agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

City may determine that Service Provider must disclose its financial interests by completing and filing a Fair Political Practices Commission Form 700, Statement of Economic Interests. If such a determination is made, Service Provider shall file the subject Form 700 with the City Clerk's Office pursuant to the written instructions provided by the Office of the City Clerk within ten (10) days of the request.

City understands and acknowledges that Service Provider is, as of the date of execution of this Agreement, independently involved in the performance of non-related services for other governmental agencies and private parties. Service Provider is unaware of any stated position of City relative to such projects. Any future position of City on such projects shall not be considered a conflict of interest for purposes of this section.

City understands and acknowledges that Service Provider will perform non-related services for other governmental agencies and private Parties following the completion of the Services under this Agreement. Any such future service shall not be considered a conflict of interest for purposes of this section.

CONFIDENTIAL INFORMATION; RELEASE OF INFORMATION.

All information gained, or work product produced by Service Provider in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Service Provider. Service Provider shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the City Manager, except as may be required by law.

Service Provider, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the City Manager or unless requested by the City Attorney of City, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Service Provider gives City notice of such court order or subpoena.

If Service Provider, or any officer, employee, agent or subcontractor of Service Provider, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Service Provider for any damages, costs and fees, including attorney's fees, caused by or incurred as a result of Service Provider's conduct.

Service Provider shall promptly notify City should Service Provider, its officers, employees, agents or subcontractors, be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed thereunder. City retains the right, but has no obligation, to represent Service Provider or be present at any deposition, hearing or similar proceeding. Service Provider agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Service Provider. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

INDEMNIFICATION.

(a) Indemnification for Professional Liability. Where the law establishes a professional standard of care for Service Provider's services, to the fullest extent permitted by law, Service Provider shall indemnify, protect, defend and hold harmless City and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorney's fees and costs, court costs, interest, defense costs, and expert witness fees) arise out of, are a consequence of, or are in any way attributable to, in whole or in part, any negligent or wrongful act, error or omission of Service Provider, or by any individual or entity for which Service Provider is legally liable, including but not limited to officers, agents, employees or subcontractors of Service Provider, in the performance of professional services under this Agreement.

(b) Indemnification for Other than Professional Liability. Other than in the performance of professional services and to the full extent permitted by law, Service Provider shall indemnify, protect, defend and hold harmless City, and any and all of its employees, officials and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorney's fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Service Provider, or by any individual or entity for which Service Provider is legally liable, including but not limited to officers, agents, employees or subcontractors of Service Provider.

(c) Indemnification from Sub-Service Providers. Service Provider agrees to obtain executed indemnity agreements with provisions identical to those set forth in this section from each and every sub-Service Provider or any other person or entity involved by, for, with or on behalf of Service Provider in the performance of this Agreement naming the Indemnified Parties as additional indemnitees. In the event Service Provider fails to obtain such indemnity obligations from others as required herein, Service Provider agrees to be fully responsible according to the terms of this section. Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend City as set forth herein is binding on the successors, assigns or heirs of Service Provider and shall survive the termination of this Agreement or this section.

(d) Limitation of Indemnification. Notwithstanding any provision of this section to the contrary, design professionals are required to defend and indemnify the City only to the extent permitted by Civil Code Section 2782.8, which limits the liability of a design professional to claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the design professional. The term "design professional," as defined in Section 2782.8, is limited to licensed architects, licensed landscape architects, registered professional engineers, professional land surveyors, and the business entities that offer such services in accordance with the applicable provisions of the California Business and Professions Code.

(e) City's Negligence. The provisions of this section do not apply to claims occurring as a result of City's sole negligence. The provisions of this section shall not release City from liability arising from gross negligence or willful acts or omissions of City or any and all of its officials, employees and agents.

INSURANCE.

Service Provider agrees to obtain and maintain in full force and effect during the term of this Agreement the insurance policies set forth in Exhibit "C" "Insurance" and made a part of this Agreement. All insurance policies shall be subject to approval by City as to form and content. These requirements are subject to amendment or waiver if so approved in writing by the City Manager. Service Provider agrees to provide City with copies of required policies upon request.

ASSIGNMENT.

The expertise and experience of Service Provider are material considerations for this Agreement. City has an interest in the qualifications and capability of the persons and entities who will fulfill the duties and obligations imposed upon Service Provider under this Agreement. In recognition of that interest, Service Provider shall not assign or transfer this Agreement or any portion of this Agreement or the performance of any of Service Provider's duties or obligations under this Agreement without the prior written consent of the City. Any attempted assignment shall be ineffective, null and void, and shall constitute a material breach of this Agreement entitling City to any and all remedies at law or in equity, including termination of this Agreement pursuant to Section 19 "Termination of Agreement." City acknowledges, however, that Service Provider, in the performance of its duties pursuant to this Agreement, may utilize subcontractors.

CONTINUITY OF PERSONNEL.

Service Provider shall make every reasonable effort to maintain the stability and continuity of Service Provider's staff and subcontractors, if any, assigned to perform the Services. Service Provider shall notify City of any changes in Service Provider's staff and subcontractors, if any, assigned to perform the Services prior to and during any such performance.

TERMINATION OF AGREEMENT.

City may terminate this Agreement, with or without cause, at any time by giving thirty (30) days written notice of termination to Service Provider. In the event such notice is given, Service Provider shall cease immediately all work in progress.

Service Provider may terminate this Agreement for cause at any time upon thirty (30) days written notice of termination to City.

If either Service Provider or City fail to perform any material obligation under this Agreement, then, in addition to any other remedies, either Service Provider, or City may terminate this Agreement immediately upon written notice.

Upon termination of this Agreement by either Service Provider or City, all property belonging exclusively to City which is in Service Provider's possession shall be returned to City. Service Provider shall furnish to City a final invoice for work performed and expenses incurred by Service Provider, prepared as set forth in Section 4 "Compensation and Method of Payment" of this Agreement. This final invoice shall be reviewed and paid in the same manner as set forth in Section 4 "Compensation and Method of Payment" of this Agreement.

DEFAULT.

In the event that Service Provider is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Service Provider for any work performed after the date of default. Instead, the City may give notice to Service Provider of the default and the reasons for the default. The notice shall include the timeframe in which Service Provider may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, if circumstances warrant. During the period of time that Service Provider is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. In the alternative, the City may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Service Provider does not cure the default, the City may take necessary steps to terminate this Agreement under Section 19 "Termination of Agreement." Any failure on the part of the City to give notice of the Service Provider's default shall not be deemed to result in a waiver of the City's legal rights or any rights arising out of any provision of this Agreement.

EXCUSABLE DELAYS.

Service Provider shall not be liable for damages, including liquidated damages, if any, caused by delay in performance or failure to perform due to causes beyond the control of Service Provider. Such causes include, but are not limited to, acts of God, acts of the public enemy, acts of federal, state or local governments, acts of City, court orders, fires, floods, epidemics, strikes, embargoes, and unusually severe weather. The term and price of this Agreement shall be equitably adjusted for any delays due to such causes.

COOPERATION BY CITY.

All public information, data, reports, records, and maps as are existing and available to City as public records, and which are necessary for carrying out the Services shall be furnished to Service Provider in every reasonable way to facilitate, without undue delay, the Services to be performed under this Agreement.

NOTICES.

All notices required or permitted to be given under this Agreement shall be in writing and shall be personally delivered, or sent by telecopier or certified mail, postage prepaid and return receipt requested, addressed as follows:

To City: City of Cathedral City
Attn: City Manager
68-700 Avenida Lalo Guerrero
Cathedral City, CA 92234

To Service Provider: _____

Notice shall be deemed effective on the date personally delivered or transmitted by facsimile or, if mailed, three (3) days after deposit of the same in the custody of the United States Postal Service.

AUTHORITY TO EXECUTE.

The person or persons executing this Agreement on behalf of Service Provider represents and warrants that he/she/they has/have the authority to so execute this Agreement and to bind Service Provider to the performance of its obligations hereunder.

ADMINISTRATION AND IMPLEMENTATION.

This Agreement shall be administered and executed by the City Manager or his or her designated representative. The City Manager shall have the authority to issue interpretations and to make amendments to this Agreement, including amendments that commit additional funds, consistent with Section 27 "Amendment" and the City Manager's contracting authority under the Cathedral City Municipal Code.

BINDING EFFECT.

This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the Parties.

AMENDMENT.

No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Service Provider and by the City. The City Manager shall have the authority to approve any amendment to this Agreement if the total compensation under this Agreement, as amended, would not exceed the City Manager's contracting authority under the Cathedral City Municipal Code. All other amendments shall be approved by the City Council. The Parties agree that the requirement for written modifications cannot be waived and that any attempted waiver shall be void.

WAIVER.

Waiver by any Party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any Party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision nor a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by

City of any work or services by Service Provider shall not constitute a waiver of any of the provisions of this Agreement.

LAW TO GOVERN; VENUE.

This Agreement shall be interpreted, construed and governed according to the laws of the State of California. In the event of litigation between the Parties, venue in state trial courts shall lie exclusively in the County of Riverside, California. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in Riverside.

ATTORNEYS FEES, COSTS AND EXPENSES.

In the event litigation or other proceeding is required to enforce or interpret any provision of this Agreement, the prevailing Party in such litigation or other proceeding shall be entitled to an award of reasonable attorney's fees, costs and expenses, in addition to any other relief to which it may be entitled.

ENTIRE AGREEMENT.

This Agreement, including the attached Exhibits "A" through "C", is the entire, complete, final and exclusive expression of the Parties with respect to the matters addressed therein and supersedes all other agreements or understandings, whether oral or written, or entered into between Service Provider and City prior to the execution of this Agreement. No statements, representations or other agreements, whether oral or written, made by any Party which are not embodied herein shall be valid and binding.

SEVERABILITY.

If any term, condition or covenant of this Agreement is declared or determined by any court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall not be affected thereby, and the Agreement shall be read and construed without the invalid, void or unenforceable provision(s).

CONFLICTING TERMS.

Except as otherwise stated herein, if the terms of this Agreement conflict with the terms of any Exhibit hereto, or with the terms of any document incorporated by reference into this Agreement, the terms of this Agreement shall control.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date and year first-above written.

CITY OF CATHEDRAL CITY

[SERVICE PROVIDER NAME]

Charles P. McClendon
City Manager

By: _____
Its: _____

ATTEST:

By: _____
Its: _____

Tracey R. Martinez, CMC
City Clerk

APPROVED AS TO FORM

Eric S. Vail
City Attorney

NOTE: SERVICE PROVIDER'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO SERVICE PROVIDER'S BUSINESS ENTITY.

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

ALL-PURPOSE ACKNOWLEDGMENT NOTARY FOR CALIFORNIA

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE)
COUNTY OF RIVERSIDE)

On _____, 2019, before me, _____
Date Name And Title Of Officer (e.g. "Jane Doe, Notary Public")
personally appeared _____,
Name of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though this section is optional, completing this information can deter alternation of the document or fraudulent reattachment of this form to an unintended document.

CAPACIT(IES) CLAIMED BY SIGNER(S)

Signer's
Name: _____

- " Individual
- " Corporate Officer

Title(s)

- " Partner(s) " Limited
- " General
- " Attorney-In-Fact
- " Trustee(s)
- " Guardian/Conservator
- " Other: _____

Signer is representing:
Name Of Person(s) Or Entity(ies)

DESCRIPTION OF ATTACHED DOCUMENT

Title or Type of Document

Number Of Pages

Date Of Document

Signer(s) Other Than Named Above

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

ALL-PURPOSE ACKNOWLEDGMENT NOTARY FOR CALIFORNIA

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE)

On _____, 2019, before me, _____
Date Name And Title Of Officer (e.g. "Jane Doe, Notary Public")
personally appeared _____,
Name of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though this section is optional, completing this information can deter alternation of the document or fraudulent reattachment of this form to an unintended document.

CAPACIT(IES) CLAIMED BY SIGNER(S)

Signer's
Name: _____

- ☐ Individual
- ☐ Corporate Officer

Title(s)

- ☐ Partner(s) ☐ Limited
- ☐ Attorney-In-Fact ☐ General

- ☐ Trustee(s)
- ☐ Guardian/Conservator
- ☐ Other: _____

Signer is representing:
Name Of Person(s) Or Entity(ies)

DESCRIPTION OF ATTACHED DOCUMENT

Title or Type of Document

Number Of Pages

Date Of Document

Signer(s) Other Than Named Above

EXHIBIT "A"
SCOPE OF SERVICES

I. Service Provider will perform the following Services:

- A.
- B.
- C.
- D.

II. As part of the Services, Service Provider will prepare and deliver the following tangible work products to the City:

- A.
- B.
- C.
- D.

III. During performance of the Services, Service Provider will keep the City apprised of the status of performance by delivering the following status reports:

- A.
- B.
- C.
- D.

IV. The tangible work products and status reports will be delivered to the City pursuant to the following schedule:

- A.
- B.
- C.
- D.

V. Service Provider will utilize the following personnel to accomplish the Services:

A.

B.

C.

D.

VI. Service Provider will utilize the following subcontractors to accomplish the Services:

A.

B.

C.

D.

EXHIBIT "B"
COMPENSATION

I. Service Provider shall use the following rates of pay in the performance of the Services:

- | | | |
|----|----------------------------------|--|
| A. | <u> [job] </u> | <u> [hourly rate] </u> |
| B. | <u> [job] </u> | <u> [hourly rate] </u> |
| C. | <u> [job] </u> | <u> [hourly rate] </u> |
| D. | <u> [job] </u> | <u> [hourly rate] </u> |
| E. | <u> [job] </u> | <u> [hourly rate] </u> |

II. Service Provider may utilize subcontractors as indicated in this Agreement. The hourly rate for any subcontractor is not to exceed \$_____ per hour without written authorization from the City Manager or his designee.

EXHIBIT "C"

INSURANCE

A. Insurance Coverages. Service Provider shall provide and maintain insurance, acceptable to the City, in full force and effect throughout the term of this Agreement, against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Services by Service Provider, its agents, representatives or employees. Service Provider shall procure and maintain the following scope and limits of insurance:

Only the following "marked" requirements are applicable:

X **Commercial General Liability (CGL):** Insurance written on an occurrence basis to protect Service Provider and City against liability or claims of liability which may arise out of this Agreement in the amount of one million dollars (\$1,000,000) per occurrence and subject to an annual aggregate of two million dollars (\$2,000,000). Coverage shall be at least as broad as Insurance Services Office form Commercial General Liability coverage (Occurrence Form CG 0001). There shall be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. additional insured claims or contractual liability. All defense costs shall be outside the limits of the policy.

X **Vehicle Liability Insurance:** Vehicle liability insurance in an amount not less than \$1,000,000 for injuries, including accidental death, to any one person, and subject to the same minimum for each person, in an amount not less than one million dollars (\$1,000,000) for each accident, and property damage insurance in an amount of not less than one million dollars (\$1,000,000). A combined single limit policy with aggregate limits in an amount of not less than \$2,000,000 shall be considered equivalent to the said required minimum limits. Coverage shall be at least as broad as Insurance Services Office form number CA 0001 covering Automobile Liability, including code 1 "any auto" and endorsement CA 0025, or equivalent forms subject to the approval of the City.

X **Workers' Compensation Insurance:** Workers' Compensation insurance that includes a minimum of one million dollars (\$1,000,000) of employers' liability coverage. Service Provider shall provide an endorsement that the insurer waives the right of subrogation against the City and its respective elected officials, officers, employees, agents and representatives. In the event a claim under the provisions of the California Workers' Compensation Act is filed against City by a bona fide employee of Service Provider participating under this Agreement, Service Provider is to defend and indemnify the City from such claim.

X **Professional Liability Insurance:** Professional liability insurance appropriate to the Service Provider's profession in an amount not less than one million dollars \$1,000,000 per occurrence. This coverage may be written on a "claims made" basis, and must include coverage for contractual liability. The professional liability insurance required by this Agreement must be endorsed to be applicable to claims based upon, arising out of or related to Services performed under this Agreement. The insurance must be maintained for at least three (3) consecutive years following the completion of Service Provider's services or the termination of this Agreement. During this additional three (3) year period, Service Provider shall annually and upon request of the City submit written evidence of this continuous coverage.

B. Other Provisions. Insurance policies required by this Agreement shall contain the following provisions:

1. All Coverages.

a. Each insurance policy required by this Agreement shall be endorsed and state the coverage shall not be suspended, voided, cancelled by the insurer or either Party to this Agreement, reduced in coverage or in limits except after 30 days' prior written notice by certified mail, return receipt requested, has been given to City.

b. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.

2. Commercial General Liability and Automobile Liability Coverages.

a. City, and its respective elected and appointed officers, officials, and employees and volunteers are to be covered as additional insureds as respects: liability arising out of activities Service Provider performs; products and completed operations of Service Provider; premises owned, occupied or used by Service Provider; or automobiles owned, leased, hired or borrowed by Service Provider. The coverage shall contain no special limitations on the scope of protection afforded to City, and their respective elected and appointed officers, officials, or employees.

b. Service Provider's insurance coverage shall be primary insurance with respect to City, and its respective elected and appointed, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by City, and its respective elected and appointed officers, officials, employees or volunteers, shall apply in excess of, and not contribute with, Service Provider's insurance.

c. Service Provider's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

d. Any failure to comply with the reporting or other provisions of the insurance policies, including breaches of warranties, shall not affect coverage provided to City, and its respective elected and appointed officers, officials, employees or volunteers.

e. The insurer waives all rights of subrogation against the City, its elected or appointed officers, officials, employees or agents.

3. Workers' Compensation Coverage. Unless the City Manager otherwise agrees in writing, the insurer shall agree to waive all rights of subrogation against City, and its respective elected and appointed officers, officials, employees and agents for losses arising from work performed by Service Provider.

C. Other Requirements. Service Provider agrees to deposit with City, at or before the effective date of this Agreement, certificates of insurance necessary to satisfy City that the insurance provisions of this contract have been complied with. The City may require that Service Provider furnish City with copies of original endorsements effecting coverage required by this Exhibit "C". The certificates and endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. City reserves the right to inspect complete, certified copies of all required insurance policies, at any time.

1. Service Provider shall furnish certificates and endorsements from each subcontractor identical to those Service Provider provides.

2. Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City or its respective elected or appointed officers, officials, employees and volunteers, or the Service Provider shall procure a bond guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims.

3. The procuring of such required policy or policies of insurance shall not be construed to limit Service Provider's liability hereunder nor to fulfill the indemnification provisions and requirements of this Agreement.